

questioned, and the reasons for requesting the appeal service. If such appeal request is based on the results stated on an official certificate, the original and all copies of the certificate available at the appeal inspection site shall be provided to the appeal inspection program employee assigned to make the appeal inspection.

§ 592.430 When an application for an appeal inspection may be refused.

When it appears to the official with whom an appeal request is filed that the reasons given in the request are frivolous or not substantial, class, quality, quantity, or that the condition of the product has undergone a material change since the original inspection, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal inspection may be refused. In such case, the applicant shall be promptly notified of the reason(s) for refusal.

§ 592.440 Who shall perform the appeal.

(a) An appeal inspection or review of a decision requested under § 592.410(a) shall be made by the inspection program employee's immediate supervisor or by an inspection program employee assigned by the immediate supervisor other than the inspection program employee whose inspection or decision is being appealed.

(b) Appeal inspections requested under § 592.410(b) shall be performed by an inspection program employee other than the inspection program employee who originally inspected the product.

(c) Whenever practical, an appeal inspection shall be conducted jointly by two inspection program employees. The assignment of the inspection program personnel who will make the appeal inspection under § 592.410(b) shall be made by the District Manager.

§ 592.450 Procedures for selecting appeal samples.

(a) *Prohibition on movement of product.* Products shall not have been moved from the place where the inspection being appealed was performed and must

have been maintained under adequate refrigeration, when applicable.

(b) *Laboratory analyses.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. When the original sample containers cannot be located, the appeal sample shall consist of product taken at random from double the number of original sample containers.

(c) *Condition inspection.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. A condition appeal cannot be made unless all originally sampled containers are available.

§ 592.460 Appeal certificates.

Immediately after an appeal inspection is completed, an appeal certificate shall be issued to show that the original inspection was sustained or was not sustained. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government. When the appeal inspection program employee assigns a different class to the lot or determines that a net weight shortage exists, the lot shall be retained pending correction of the labeling or approval of the product disposition by the District Office.

FEES AND CHARGES

§ 592.500 Payment of fees and charges.

(a) Fees and charges for voluntary base time rate, overtime inspection service, and holiday inspection service shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of this section and § 592.510 through § 592.530, both inclusive. If so required by the Inspection program personnel, such fees and charges shall be paid in advance.

(b) Fees and charges for any service shall, unless otherwise required pursuant to paragraph (c) of this section, be